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*Attorneys for Plaintiff and Counter-defendant
Epic Games, Inc.*

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.,)	Case No. 4:20-cv-05640-YGR-TSH
)	
Plaintiff, Counter-defendant,)	EPIC GAMES, INC.'S TENTATIVE
)	REVISED TRIAL WITNESS LIST
)	
v.)	
)	The Honorable Yvonne Gonzalez Rogers
APPLE INC.,)	
)	Trial: May 3, 2021
Defendant, Counterclaimant.)	
)	

Pursuant to an agreement between the parties, Plaintiff and Counter-Defendant Epic Games, Inc. (“Epic”) files its tentative revised list of trial witnesses, other than for impeachment or additional rebuttal, reserving its rights to supplement or amend its list for good cause or in response to revisions by Apple Inc. (“Apple”) to Apple’s witness list and other pre-trial disclosures. Epic also reserves the right to substitute deposition designations for live testimony, and vice versa, including based on the availability or non-availability of any witness to appear at trial. Epic has previously filed the curricula vitae of its expert witnesses and summaries of their opinions (*see* ECF No. 376), and these materials are included in the Joint Trial Readiness Binder within Epic’s expert reports.

DATE: April 14, 2021

CRAVATH, SWAINE & MOORE LLP

/s/ Katherine B. Forrest

Katherine B. Forrest

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Epic Games, Inc.*

Fact Witnesses

<u>Witness</u>	<u>Epic's Brief Statement of Substance of Testimony</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
<u>Epic Witnesses</u>						
Steve Allison, General Manager, Epic Games Store	Epic Games Store (business)	30 minutes	30 minutes	10 minutes	Live, in person	Will Call
Andrew Grant, Engineering Fellow	Epic's membership in the Apple Developer Program; engineering and development of Epic's products for various platforms; Epic Direct Payment on iOS	1 hour	30 minutes	10 minutes	Live, in person	Will Call
Thomas Ko, Senior Director, Head of Online Business Strategy and Operations	Epic's payment processing services; Apple's payment processing services; Epic Direct Payment on iOS	30 minutes	15 minutes	15 minutes	Live, in person	Will Call
Tim Sweeney, Founder and Chief Executive Officer	Epic's history and business; Epic's business discussions with Apple and Google; Epic Direct Payment on iOS; App	4 hours	3 hours	40 minutes	Live, in person	Will Call

EPIC GAMES, INC.'S TENTATIVE REVISED TRIAL WITNESS LIST
Case No. 4:20-cv-05640-YGR-TSH

<u>Witness</u>	<u>Epic's Brief Statement of Substance of Testimony</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
	Store policies and practices; Epic's marketing and promotional activities; Epic's efforts to compete in app distribution and in-app payment processing					
Matthew Weissinger, Vice President, Marketing	Epic's marketing and promotional activities; marketing and promotional support services offered by video game consoles and mobile operating system providers, including Apple	1 hour	30 minutes	15 minutes	Live, in person	Will Call
Document custodian ¹	Admission of business records and other documents in Epic's possession, as necessary	5 minutes			Live, in person or may request leave to appear remotely.	May Call

¹ Epic expects that the parties will meet and confer regarding, and potentially stipulate to, the admission of business records and other documents, but Epic reserves its right to call witnesses to support the admission of business records and other documents, if necessary.

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Case No. 4:20-cv-05640-YGR-TSH

<u>Witness</u>	<u>Epic's Brief Statement of Substance of Testimony</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
<u>Apple Witnesses</u>						
Matt Fischer, Vice President, App Store	App Store business strategy; App Store financial performance; App Store policies and practices; Apple's market power over iOS developers; and/or the subjects of designated testimony	1 hour and 30 minutes	1 hour	30 minutes	Live, in person or by Deposition Designation	Will Call/Use
Trystan Kosmyinka, Senior Director, App Review	App Store review policies and practices; iOS and macOS engineering, security and privacy issues; and/or the subjects of designated testimony	45 minutes	2 hours	30 minutes	Live, in person or by Deposition Designation	Will Call/Use
Document custodian	Admission of business records and other documents in Apple's possession, as necessary	5 minutes			Live	May Call

EPIC GAMES, INC.'S TENTATIVE REVISED TRIAL WITNESS LIST

Case No. 4:20-cv-05640-YGR-TSH

<u>Witness</u>	<u>Epic's Brief Statement of Substance of Testimony</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
Eddy Cue, Senior Vice President, Internet Software and Services	The subjects of designated testimony, which include: lack of competition among mobile devices and mobile operating system software; App Store business strategy; App Store financial performance; current and historical App Store policies and practices; Apple's prior antitrust violations	1 hour ²	10 minutes		Deposition Designation	Will Use
Craig Federighi, Senior Vice President, Software Engineering	The subjects of designated testimony, which include: iOS and macOS engineering, security, privacy and competition issues; App Store policies and practices	30 minutes	5 minutes		Deposition Designation	Will Use

² Epic expects the length of direct examination for witnesses that Epic calls by deposition designation to be cut by approximately 50% to the extent that Epic is not required to play deposition testimony that is simply for the purpose of sponsoring a document.

<u>Witness</u>	<u>Epic's Brief Statement of Substance of Testimony</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross- Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
Scott Forstall, Senior Vice President, iOS Software (former)	The subjects of designated testimony, which include: iOS and macOS engineering, security, privacy and competition issues; historical App Store policies and practices; Apple's in-app purchasing function	1 hour	10 minutes		Deposition Designation	Will Use
Eric Friedman, Head of Fraud Engineering, Algorithms, and Risk	The subjects of designated testimony, which include: App Store review process; fraud and other abuse in Apple's ecosystem	30 minutes	5 minutes		Deposition Designation	Will Use

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<u>Witness</u>	<u>Epic's Brief Statement of Substance of Testimony</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
Eric Gray, Director, Commerce, Subscriptions & Pricing	The subjects of designated testimony, which include: inefficiencies and lack of integration of Apple's payment processing services; app pricing and inelasticity of demand; fraud and other abuse in Apple's ecosystem	45 minutes	5 minutes		Deposition Designation	Will Use
C.K. Haun, Senior Director, Developer Technical Services	The subjects of designated testimony, which include: App Store review policies and practices; iOS and macOS engineering, security and privacy issues	45 minutes	5 minutes		Deposition Designation	Will Use

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<u>Witness</u>	<u>Epic's Brief Statement of Substance of Testimony</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
Ron Okamoto, Vice President, Worldwide Developer Relations (former)	The subjects of designated testimony, which include: benefits Apple receives from other software developers, including Epic; Apple's market power over iOS developers	15 minutes	5 minutes		Deposition Designation	Will Use
Carson Oliver, Director of Business Management, App Store	The subjects of designated testimony, which include: App Store policies and practices; Apple's market power over iOS developers	10 minutes	5 minutes		Deposition Designation	Will Use
Shaan Pruden, Senior Director of Partnership Management and Worldwide Developer Relations	The subjects of designated testimony, which include: benefits that Apple receives from other software developers, including Epic	15 minutes	5 minutes		Deposition Designation	Will Use

EPIC GAMES, INC.'S TENTATIVE REVISED TRIAL WITNESS LIST

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<u>Witness</u>	<u>Epic's Brief Statement of Substance of Testimony</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
Mark Rollins, Finance Manager	The subjects of designated testimony, which include: Apple financials; App Store profit and loss statements	10 minutes			Deposition Designation	Will Use
Phillip Shoemaker, Technology Director, App Review (former)	The subjects of designated testimony, which include: historical App Store review policies and practices	45 minutes			Deposition Designation	Will Use
<u>Third-Party Witnesses</u>						
Vivek Sharma, Vice President, Gaming, Facebook, Inc.	App distribution; Apple restrictions on iOS app distribution; App Store review process; interactions with Apple	45 minutes	1 hour	15 minutes	Mr. Sharma is expected to request to appear remotely.	Will Call

EPIC GAMES, INC.'S TENTATIVE REVISED TRIAL WITNESS LIST

Case No. 4:20-cv-05640-YGR-TSH

<u>Witness</u>	<u>Epic's Brief Statement of Substance of Testimony</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
Lori Wright, Vice President, Xbox Business Development, Microsoft Corporation	Distribution of software; Xbox video game console business and operations; Xbox cloud gaming, including xCloud and Game Pass; interactions with Apple	90 minutes	1 hour	20 minutes	Intends to appear live and in person, but may request leave to appear remotely.	Will Call
Benjamin Simon, Founder and Chief Executive Officer, Yoga Buddhi Co.	App distribution; participation in the Apple Developer Program; App Store review process; interactions with Apple	45 minutes	30 minutes	10 minutes	Intends to appear live and in person, but may request leave to appear remotely.	Will Call
Shelley Gould, President, Co-Founder, Neuro-Fin Inc. d/b/a SmartStops	App distribution; participation in the Apple Developer Program; App Store review process; interactions with Apple	30 minutes	30 minutes	10 minutes	Intends to appear live and in person, but may request leave to appear remotely.	Will Call
Aashish Patel, Director of Product Management,	App distribution; Nvidia's GeForce Now service and business model; differences	45 minutes	45 minutes	10 minutes	Live, but may request leave to appear remotely.	Will Call

EPIC GAMES, INC.'S TENTATIVE REVISED TRIAL WITNESS LIST

Case No. 4:20-cv-05640-YGR-TSH

<u>Witness</u>	<u>Epic's Brief Statement of Substance of Testimony</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
Nvidia Corporation	between streamed apps and locally hosted apps; differences between native apps and web apps; App Store review process; interactions with Apple; and/or the subjects of designated testimony					
Adrian Ong, Senior Vice President of Operations, Match Group	The subjects of designated testimony, which include: App distribution; participation in the Apple Developer Program; App Store review process; interactions with Apple; differences between native apps and web experiences; Match Group's payment processing capabilities; effects of Apple's 30% fee on Match Group and its users; user acquisition	45 minutes	5 minutes		Deposition Designation	Will Use

EPIC GAMES, INC.'S TENTATIVE REVISED TRIAL WITNESS LIST

Case No. 4:20-cv-05640-YGR-TSH

Expert Witnesses

<u>Witness</u>	<u>Summary of Theory and Conclusions and Bases Therefor and CV</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>“Will” Call/Use or “May” Call/Use</u>
Susan Athey, Economics of Technology Professor, Stanford University Graduate School of Business	See expert disclosure served February 16, 2021 (ECF No. 376)	1 hour / 40 minutes (with potential written direct)	1.5 hours	30 minutes	Live, in person	Will Call
Ned S. Barnes, Managing Director, Berkeley Research Group	See expert disclosure served February 16, 2021 (ECF No. 376)	30 minutes / 15 minutes (with potential written direct)	1 hour	20 minutes	Live, in person	Will Call
Michael I. Cragg, Principal and Chairman, The Brattle Group	See expert disclosure served March 15, 2021 (ECF No. 376)	1 hour and 30 minutes / 1 hour (with potential written direct)	1 hour	20 minutes	Live, in person	Will Call
David Evans, Chairman, Global Economics Group	See expert disclosures served February 16, 2021 and March 15, 2021 (ECF No. 376)	5 hours / 3 hours (with potential written direct)	4.5 hours	1 hour	Live, in person	Will Call
Wenke Lee, Chair, College of Computing, Georgia Institute of Technology	See expert disclosures served February 16, 2021 and March 15, 2021 (ECF No. 376)	1 hour / 30 minutes (with potential written direct)	1 hour	20 minutes	Live, in person	Will Call

EPIC GAMES, INC.’S TENTATIVE REVISED TRIAL WITNESS LIST

Case No. 4:20-cv-05640-YGR-TSH

<u>Witness</u>	<u>Summary of Theory and Conclusions and Bases Therefor and CV</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>“Will” Call/Use or “May” Call/Use</u>
Nancy A. Mathiowetz, Professor Emerita, Department of Sociology, the University of Wisconsin-Milwaukee	See expert disclosure served March 15, 2021 (ECF No. 376)	40 minutes / 20 minutes (with potential written direct)	30 minutes	20 minutes	Live, in person	Will Call
James Mickens, Professor of Computer Science, Harvard University	See expert disclosure served February 16, 2021 (ECF No. 376)	1 hour 30 minutes / 1 hour 30 minutes (with potential written direct)	1 hour	20 minutes	Intends to appear live and in person, but may request leave to appear remotely.	Will Call
Peter E. Rossi, Professor of Marketing, Economics and Statistics, UCLA	See expert disclosure served February 16, 2021 (ECF No. 376)	40 minutes / 15 minutes (with potential written direct)	30 minutes	20 minutes	Live, in person	Will Call

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